

REMARKS

The application has been carefully reviewed in light of the Office Action dated January 27, 2003. Applicant gratefully acknowledges the Examiner's statement that claims 8-12, 19-21, 30-34, 41-43 and 51-53 contain allowable subject matter. Claims 15, 37 and 47 have been amended. Claims 1 and 4-58 remain pending in this application.

Claims 15, 16, 37, 38, 47 and 48 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. Claims 15, 37 and 47 have been amended in response to this rejection and claims 15, 16, 37, 38, 47 and 48 are now in full compliance with § 112.

Claims 1, 4-7, 13, 14, 17, 18, 22-29, 35, 36, 39, 40, 44-46, 49, 50 and 54-58 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Leung (U.S. Patent No. 6,504,780). Applicant respectfully traverses the rejection and requests reconsideration.

Applicant respectfully submits that Leung is not proper prior art to the present application and that, therefore, the rejection should be withdrawn. Leung has a filing date of April 30, 2001. Although Leung claims priority to, and is a continuation-in-part of, U.S. Patent No. 6,415,353 ("the '353 Patent"), filed September 24, 1999, none of the subject matter upon which the Office Action relies in support of the rejection is included in the '353 Patent. That is, none of the subject matter relied upon in the Office Action is entitled to the September 24, 1999 priority date. In fact, Leung contains six figures, none of which appears in the '353 Patent. Rather, the subject matter relied upon in the Office Action, and indeed virtually all of the subject matter included in Leung, first appears in Leung, which as stated above, was filed April 30, 2001. Since the present application has a filing date of August 21, 2000, Leung cannot be properly cited as prior art.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is

Application No.: 09/641,519

Docket No.: M4065.0290/P290

respectfully requested to withdraw the outstanding rejections of the claims and to pass this application to issue.

Dated: April 28, 2003

Respectfully submitted,

By 

Thomas J. D'Amico

Registration No. 28,371

Salvatore P. Tamburo

Registration No. 45,153

DICKSTEIN SHAPIRO MORIN &
OSHINSKY LLP

2101 L Street NW

Washington, DC 20037-1526

(202) 785-9700

Attorneys for Applicant



Application No.: 09/641,519

Docket No.: M4065.0290/P290

Version with Markings to Show Changes Made

15. (Amended) The system of claim 13 further comprising a memory source other than said memory cells such that said controller operates said DRAM such that [said] a conflicting data access command is satisfied with said memory source other than said memory cells and wherein said memory cells may be refreshed.

37. (Amended) The integrated circuit device of claim 35, wherein said system further comprises a memory source other than said memory cells such that upon said controller determining that data stored in at least some of said memory cells is in danger of being lost as a result of not being refreshed, said controller operates said DRAM such that [said] a conflicting data access command is satisfied with said memory source other than said memory cells and wherein said memory cells may be refreshed.

47. (Amended) The processor-based system of claim 45, wherein said system for refreshing memory cells further comprises a memory source other than said memory cells such that said controller operates said DRAM such that [said] a conflicting data access command is satisfied with said memory source other than said memory cells and wherein said memory cells may be refreshed.

RECEIVED
APR 30 2003
Technology Center 2100